IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 19 of 1991

For Approval and Signature:

HON'BLE MISS JUSTICE R.M.DOSHIT

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

ZANDU PHARMACEUTICALS WORKS LTD.

Versus

D K PATEL

Appearance:

1. Special Civil Application No. 19 of 1991

MR. TEJAS BAROT FOR M/S TRIVEDI & GUPTA for Petitioner No. 1-2

MR. A.J. DESAI, LD. AGP for Respondent No. 1

RULE SERVED for Respondent No. 2-4

CORAM : HON'BLE MISS JUSTICE R.M.DOSHIT

Date of decision: 21/09/2004

ORAL JUDGEMENT

Heard the learned advocates.

1. The petitioners, a public limited company and the President thereof (hereinafter referred to as the 'Company') challenge the order dated 20th December, 1990 made by the Conciliation Officer, Valsad in Miscellaneous Application No. IDC. 33 (1) (b) 3 of 1990.

2. It appears that, at the relevant time conciliation proceeding with respect to Charter of Demands made by the workmen against the company was pending before the Conciliation Officer, Valsad. Pending the said proceeding the respondents nos.2 to 4 came to be suspended from service. Feeling aggrieved the said workmen lodged above referred complaint No. 3 of 1990 under section 33 (1) (b) of the Industrial Disputes Act, 1947 (hereinafter referred to as " the Act"). The Conciliation Officer by impugned order held that the said orders of suspension were made in contravention of section 33 (1) (b) of the Act. The company was, therefore, directed to take the workmen back on duty with back wages. Feeling aggrieved the Company has preferred the present petition. Pending this petition by order dated 6th January, 1991 (Coram: G.N. Ray, C.J. {as he then was} and R.K. Abichandani, J) the petition was admitted to final hearing. The operation of the impugned order was stayed on condition that "without prejudice to the rights and contentions of the parties in the instant proceedings, the petitioner will pay to the respondents Nos. 2 to 4, full wages, last drawn by them with effect from January, 1991. "

3. Learned advocate Mr. Barot has submitted that pending this petition the disciplinary proceeding initiated against the workmen has been completed. The workmen have been dismissed from service. Feeling aggrieved by termination of service the workmen have raised industrial dispute which has been referred to the Labour Court, Valsad and has been registered as Reference (LCV) No: 628/1993. The said reference is pending for hearing and final disposal.

4. In above view of the matter, the matter at issue in this petition has become academic. Learned advocate Mr. Barot has, however, submitted that the observation made by the Conciliation Officer that the action of the company in suspending the workman pending inquiry being meaningless requires to be set aside. I see no substance in this contention. As the workmen have been dismissed from service, the order made with respect to the suspension pending disciplinary proceeding is of no consequence. The matters which are academic need not be

decided.

5. The petition is accordingly disposed off. Rule is discharged. There shall be no order as to costs.

Dt: 21-9-2004 (MS. R.M. DOSHIT, J)

/vgn